

Message Text

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ORIGIN AF-04

INFO OCT-01 SS-14 ISO-00 EB-03 L-01 TRSE-00 NSC-05 NSCE-00

INR-05 CIAE-00 SP-02 OMB-01 /036 R

DRAFTED BY AF/EPS:LMWHITE/EB/IFD/OIA:DHSTEBBING

APPROVED BY EB/IFD/OIA:RJSMITH

AF/E:RBARRETT

OPIC/GC:AMARRA

L/AF:MMATHESON

TREASURY:RCOOPER

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R 172241Z AUG 76

FM SECSTATE WASHDC

TO AMEMBASSY ADDIS ABABA

C O N F I D E N T I A L STATE 204638

LIMDIS

E.O. 11652: GDS

TAGS: EINV

SUBJECT: ETHIOPIAN SPICE

REF: DONNELLY/WHITE LETTER, JULY 15, 1976

1. ETHIOPIAN SPICE CASE APPEARS TO LEND WEIGHT TO ARGUMENT, WHICH WE ARE REQUESTING BY SEPTTEL THAT YOU MAKE VIA DIPLOMATIC NOTE, THAT EPMG COMPENSATION COMMISSION SHOULD NOW ACCEPT CLAIMS AND GET TO WORK ON PROCESSING THEM. WE BELIEVE THAT YOUR RESPONSE TO OFFICIALS OF THE COMMERCIAL BANK OF ETHIOPIA, THE MINISTRY OF NATIONAL RESOURCES DEVELOPMENT AND THE ETHIOPIAN SPICE EXTRACTION COMPANY SHOULD BE COORDINATED WITH DELIVERY OF ABOVE-MENTIONED NOTE TO MAXIMIZE POTENTIAL IMPACT UPON PACE OF THE CLAIMS SETTLEMENT PROCESS.

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2. FYI: KALAMAZOO SPICE HAS CONFIRMED TO DEPARTMENT AND

OPIC THAT IT IS WITHHOLDING PAYMENT ON DRAFTS FOR OLEORESIN SHIPMENTS UNTIL THERE IS AGREEMENT WITH EPMG ON COMPENSATION FOR EXPROPRIATION OF THE COMPANY'S INVESTMENT IN ETHIOPIA AND THAT COMPANY IS PREPARED TO DISCUSS COMPENSATION WITH EPMG AT ANY TIME. PAUL TODD, PRESIDENT OF KALAMAZOO SPICE, TOLD DEPARTMENT THAT COMPANY'S LEGAL COUNSEL BELIEVES IT HAS A STRONG CASE THAT ETHIOPIAN

GOVERNMENT IS RESPONSIBLE FOR PAYMENT TO THE COMMERCIAL BANK OF ETHIOPIA BECAUSE EPMG HAS NOT COMPENSATED KALAMAZOO. TODD SAID THAT EFFORTS TO WORK OUT A MANAGEMENT CONTRACT WITH THE ETHIOPIANS FAILED AND KALAMAZOO HAS NOW FOUND OTHER SOURCES OF SUPPLY FOR OLEORESIN AT BETTER PRICES AND WITH GREATER ASSURANCE OF A STEADY SUPPLY. KALAMAZOO IS NO LONGER INTERESTED IN A MINORITY EQUITY IN ETHIOPIAN SPICE AND WISHES TO BE COMPENSATED FOR ITS ENTIRE INVESTMENT. TODD IS CONCERNED, HOWEVER, ABOUT THE LOCATION OF NEGOTIATIONS AND WOULD NOT SEND A REPRESENTATIVE TO ETHIOPIA IF THERE WERE ANY CHANCE THAT HE MIGHT BE DETAINED AS IN THE CASE OF A NORWEGIAN BUSINESSMAN WHO WAS HELD FOR OVER TWO YEARS.

3. PURSUANT TO THE OPIC INSURANCE CONTRACT, KALAMAZOO SPICE NOTIFIED OPIC OF THE TAKING BY THE EPMG OF A PORTION OF ITS INVESTMENT IN ETHIOPIAN SPICE. UNDER THE INSURANCE CONTRACT ONE YEAR MUST ELAPSE BEFORE THE TAKING MATURES INTO AN ACTION FOR WHICH A COMPENSATION CLAIM WOULD BE CONSIDERED BY OPIC. UPON EXPIRATION OF THE ONE YEAR PERIOD (FEBRUARY 1976), KALAMAZOO SPICE WOULD HAVE HAD SIX MONTHS (UNTIL AUGUST 1976) IN WHICH TO FILE A CLAIM.

OPIC HAS ADVISED KALAMAZOO SPICE THAT, SHOULD IT COMPLETE CLAIM THROUGH SUBMISSION OF REQUISITE DOCUMENTATION, OPIC WOULD MOST LIKELY DETERMINE THAT, ON THE BASIS OF PRODUCE RECEIVED FROM ETHIOPIAN SPICE, IT HAD RECEIVED COMPENSATION BY OTHER MEANS AND THE CLAIM WOULD THEREFORE BE DENIED.

NONETHELESS KALAMAZOO SPICE DOES NOT WANT TO LOSE THE RIGHT TO FILE A CLAIM WITH OPIC IN CASE IT AGREES TO MAKE CONFIDENTIAL

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PAYMENT ON THE DRAFTS AND THUS RETURN THE OTHER COMPENSATION. AS THE FILING OF A CLAIM WITH OPIC MAY INVOLVE SIGNIFICANT LEGAL AND ACCOUNTING EXPENSES. OPIC HAS AGREED TO EXTEND THE PERIOD DURING WHICH KALAMAZOO MAY MAKE A CLAIM. THIS WILL PERMIT KALAMAZOO SPICE TO DEFER A DECISION ON WHETHER TO INCUR THIS EXPENSE UNTIL IT CAN GET A CLEAR READING ON NEGOTIATIONS WITH EPMG ON COMPENSATION. END FYI

4. KALAMAZOO SPICE CASE IS A GOOD ILLUSTRATION OF THE FACT THAT SETTLEMENT OF OUTSTANDING EXPROPRIATION CASES IS IN EPMG'S OWN BEST INTEREST. IN YOUR FOLLOW-UP WITH THE COMMERCIAL BANK OF ETHIOPIA AND OTHER OFFICIALS, WE SUGGEST THAT YOU POINT OUT THE WILLINGNESS OF KALAMAZOO SPICE TO NEGOTIATE COMPENSATION FOR EXPROPRIATION OF ITS ASSETS IN ETHIOPIA AND EXPRESS THE VIEW THAT DELAYED PAYMENTS ISSUE

MIGHT DISAPPEAR ALSO ONCE COMPENSATION QUESTION IS RESOLVED. YOU MIGHT INFORMALLY SUGGEST TO THE COMMERCIAL BANK AS WELL THAT, IF IT SHOULD DECIDE AT SOME POINT TO BRING SUIT IN U.S. COURTS, ITS CASE COULD BE PREJUDICED BY FAILURE OF EPMG TO PAY COMPENSATION. PLEASE ADVISE IF YOU SEE PROBLEMS WITH THIS APPROACH.

5. ABOVE MESSAGE CONTAINS PROPRIETARY INFORMATION THAT SHOULD NOT BE REVEALED TO THIRD PARTIES. KISSINGER

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CLAIMS, INDEMNIFICATION
Control Number: n/a
Copy: SINGLE
Draft Date: 17 AUG 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: powellba
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE204638
Document Source: CORE
Document Unique ID: 00
Drafter: LMWHITE/EB/IFD/OIA:DHSTEBBING
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760316-0353
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760845/aaaabmyd.tel
Line Count: 133
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN AF
Original Classification: CONFIDENTIAL
Original Handling Restrictions: LIMDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: LIMDIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: powellba
Review Comment: n/a
Review Content Flags:
Review Date: 28 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <28 JUN 2004 by ShawDG>; APPROVED <05 NOV 2004 by powellba>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ETHIOPIAN SPICE
TAGS: EINV, ET, US, KALAMAZOO SPICE COMP
To: ADDIS ABABA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006